IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 16647 of 1995

Between:

Sri Sri Satya Pramoda Thirtha Swamuluvaru

Head of the Uttrathi Mutt.,
Rep by its power of Attorney Agent M.V. Ramanacharya,

S/o. Srinivasacharyulu, R/o. Guntur.

..... PETITIONER

AND

1 III Addl. District Judge, Kakinada.
2 Munsif Magistrate Cum Special Officer,
A.P. (A.A) Tenancy Act, Tuni.
3 Bekkam Thammaiah, S/o Suranna,
R/o Pydipala Agraharam, Tuni Taluk,
East Godavari Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records pertaining to A.T.A No.36/1989 dated 18.1.95 from the first respondent confirming the order of the 2nd respondent dated 2.5.89 in ATC.No.36/1981 and quash the same by issuing a writ or direction particularly one in the nature of writ of certiorari.

Counsel for the Petitioner: MR.M.KRISHNA MOHAN RAO

Counsel for the Respondents: none appeared

The Court made the following

ORDER:

This writ petition is filed challenging the order dated 18-1-1995 in A.T.A.No.36 of 1989 passed by the first respondent confirming the order of the second respondent dated 2-5-1989 in A.T.C.No.36 of 1981 and to quash the same.

The petitioner filed ATC No.36 of 1981 on the file of Special Officer-cum-District Munsif, Tuni, under Section 6 of the Andhra Tenancy Act for fixation of fair rent. Ryotwari patta was issued to the petitioner by the Tahsildar, Tuni in his proceedings dated 23-8-1973 after making *suo motu* enquiry under Andhra Inams Abolition Act. The respondents were the contesting tenants of the petition schedule land. As the respondent is paying a rent of Rs.13.25 paise only for the entire land, which is very low, the petitioner filed the above petition for fair rent. The respondent contested the matter and denied all the allegations by contending that the petitioner institution being a charitable one, Andhra Tenancy Act has no application and the lands mentioned in the petition are inam estate lands within the meaning of Estates Abolition Act, in which the respondent got occupancy rights. Hence there is no landlord and tenant relationship between the petitioner and the respondent. After considering the facts and circumstances, the Special Officer dismissed the petition by observing that until and unless enquiry before the Tahsildar is concluded the petitioner will not have any right to ask Tenancy Tribunal to fix fair rent.

Aggrieved by the order of the Special Officer, the petitioner filed A.T.A.No.36 of 1989 before the III Additional District Judge, Kakinada contending that the petition schedule land belongs to it and the same is covered by title deed, imams 1905. Under Section 4(2) of the Inams Abolition and Conversion into Ryotwari Act, 1956, the petitioner, as inamdar, is entitled to ryotwari patta for the entire land and there is relationship of landlord and the tenant. The III Additional District Judge dismissed the appeal by order dated 18-1-1995 confirming the order of the Special Officer observing that the Special Officer, Tuni has rightly dismissed the petition as the matter is pending before the Revenue Court and the enquiry before the Tahsildar Tuni is not yet concluded. Challenging the same, the petitioner filed the present writ petition.

Though notices were served on the respondents on 30-11-1995 there is no representation on behalf of the respondent and no counter affidavit has been filed.

Hence the matter is heard basing on the material available on the record.

Learned counsel for the petitioner submitted that both the courts have dismissed the plea of the petitioner for fixation of fair rent on the ground that there is no patta granted in favour of the petitioner-mutt. Learned counsel for the petitioner submitted that by proceedings dated 24-10-2003, the Chief Commissioner of Land Administration, A.P. Hyderabad granted Ryotwari patta in favour of the petitioner-mutt. Hence the matter has to be remanded back to the primary authority for passing appropriate orders. He has filed a Xerox copy of the order passed by the Commissioner of Land administration, dated 24.10.2003, as material papers.

In view of the fact that the petitioner has been granted ryotwari patta in his favour, without going into the merits of the case, I deem it appropriate to remand the matter back to the primary authority with a direction to pass appropriate orders in accordance with law, within a period of three months from the date of receipt of a copy of this order after due intimation to the petitioner.

With the above directions, the Writ Petition is allowed. No costs.

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T. Meena Kumari, J.

4th November, 2004.

Js.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the fourth day of November, Two thousand and four.

ASSISTANT REGISTRAR

To

1 III Addl. District Judge, Kakinada.
2 Munsif Magistrate Cum Special Officer, A.P. (A.A) Tenancy Act, Tuni.
3 2 CD copies.